

JUVENILE VIOLATIONS

Policy

Juvenile offenders will be handled in accordance with Chapter 32 of New Mexico Statutes Annotated 1978. The Children's Code is remedial in nature and the welfare of the child is of utmost importance. That code is explained as follows:

Legislative Purpose of Children's Code (32-1-2 NMSA 1978)
The Children's Code shall be interpreted and construed to effectuate the following expressed legislative purposes:

1. to preserve the unity of the family whenever possible and to provide for the care, protection and wholesome mental and physical development of children coming within the provisions of the Children's Code;
2. consistent with the protection of the public interest, to remove from children committing delinquent acts the consequences of criminal behavior and to substitute therefore a program of supervision, care and rehabilitation, including rehabilitative restitution by the child to the victims of his delinquent act to the extent that the child is reasonably able to do so;
3. to achieve the foregoing purposes in a family environment whenever possible, separating the child from his parents only when necessary for his welfare or in the interests of public safety;
4. to separate clearly in the judicial and other processes affecting children under the Children's Code the neglected child, the abused child, the child in need of supervision and the delinquent child and to provide appropriate and distinct dispositional options for treatment and rehabilitation of these children;
5. to provide judicial and other procedures through which the provisions of the Children's Code are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced;
6. to provide effective deterrents to acts of juvenile delinquency, including an emphasis on community based alternatives; and

-
-
7. to provide a continuum of services for children and

their families from prevention to treatment considering whenever possible prevention, diversion and early intervention, particularly in the schools.

All violations of game and fish statutes and associated commission regulations, when committed by a juvenile, are by definition termed delinquent acts. As such, jurisdiction is held by the children's court division of the district court unless the district court has established a family court division in lieu of the children's court division.

Basic Rights of Juveniles (Chapter 31-1-27 NMSA 1978) --

1. A child subject to the provisions of the Children's Code is entitled to the same basic rights as an adult, except as otherwise provided in the Children's Code.
2. A child is entitled to be represented by counsel in every proceeding alleging delinquency or need of supervision.
3. If after due notice to the parent, guardian or custodian, and after a hearing determining indigency, the parent, guardian or custodian is declared indigent by the court, the public defender shall represent the child. If the court finds that the parent, guardian or custodian is financially able to pay for an attorney but is unwilling to do so, the court shall order the parent, guardian or custodian to reimburse the state for public defender representation.
4. No person subject to the provisions of the Children's Code who is alleged or suspected of being a delinquent child or a child in need of supervision may be interrogated or questioned without first advising the child of his constitutional rights and securing a knowing, intelligent and voluntary waiver.
5. Before any statement or confession may be introduced at a trial when a child is alleged to be a child in need of supervision or a delinquent child, the state must prove that the statement or confession in evidence was elicited only after a knowing, intelligent and voluntary waiver of the child's constitutional rights was obtained.
6. In determining whether the child knowingly, intelligently and voluntarily waived his rights, the court shall consider the following factors:

.....
.....

- a. the age and education of the respondent (a child under the age of 13 cannot be questioned without

- the presence of a parent, guardian, or counsel);
 - b. whether or not the respondent is in custody;
 - c. the manner in which he was advised of his rights;
 - d. the length of questioning and circumstances under which the respondent was questioned;
 - e. the condition of the quarters where the respondent was being kept at the time he was questioned;
 - f. the time of day and the treatment of the respondent at the time he was questioned;
 - g. the mental and physical condition of the respondent at the time that he was questioned; and
 - h. whether or not the respondent had the counsel of an attorney, friends or relatives at the time of being questioned.
7. Notwithstanding any other provision to the contrary, no confessions, statements or admissions may be introduced against a child under the age of fifteen years prior to an adjudication on the allegations of the petition.

Procedures

Citation to a Juvenile

1. When a juvenile is cited for a violation coming under your jurisdiction, the word "juvenile" will be printed in large block letters across the front of the citation on the right-hand side. If possible, the parent's name, address and phone number will be noted for the convenience of the juvenile probation officer.
2. The appearance date will be shown as "To be notified." At all times, juvenile records will be handled separately and distinctly from those of adults. No information regarding juvenile violations will be released to the public.
3. Complaints against juveniles will be forwarded to the appropriate juvenile probation officer in the county where the child resides. If "delinquency" or "need of supervision" is alleged, the proceeding may also be initiated in the county where the act constituting the
.....
.....
alleged delinquent act occurred or need of supervision exists, or in the county in which the child is detained.

4. After referral of a case to juvenile probation services, a preliminary inquiry will be made to determine the best interest of the child, and of the public, with regard to any action to be taken. After completion of the preliminary inquiry, juvenile probation services shall notify the children's court attorney and recommend an appropriate disposition for the case.
5. A petition initiating proceedings under the Children's Code shall be signed only by the children's court attorney.

Arrest of a Delinquent Juvenile

1. A child may be taken into custody (pursuant to 31-1-22 NMSA 1978) as follows:
 - a. pursuant to the order of the court endorsed on the summons because the child needs to be detained or taken into custody;
 - b. pursuant to the order of the court issued because a parent, guardian or custodian fails when requested to bring the child before the court after having promised to do so when the child was delivered upon release from custody;
 - c. pursuant to the laws of arrest for commission of a delinquent act, the officer must fill out a juvenile probable cause statement and contact the juvenile probation officer before incarceration in a juvenile detention facility;
 - d. by a law enforcement officer when the officer has reasonable grounds to believe the child is suffering from illness or injury or has been abandoned or is in danger from the child's surroundings.
2. If a child taken into custody is a Native American and is alleged to be neglected or abused, the Human Services Department shall give notice to the agent of the appropriate Indian tribe in accordance with the Indian Child Welfare Act of 1978 25 USC, Sections 1901 through 1963.
3. Any person who intentionally interferes with protective custody provided by a paragraph (a) of subsection 1 of this section is guilty of a petty misdemeanor.

.....
.....

Release of a Delinquent Juvenile

1. In compliance with 32-1-23 NMSA 1978, an officer taking a child into custody shall with all reasonable speed:
 - a. release the child to the child's parent, guardian or custodian and issue verbal counsel or warning as may be appropriate; or
 - b. in the case of an alleged delinquent or child in need of supervision, release the child to the child's parent, guardian or custodian upon his written promise to bring the child before the court when requested by the court, and if the parent, guardian or custodian fails, when requested, to bring the child before the court as promised, the court may order the child taken into custody and brought before the court; or
 - c. in the case of the alleged delinquent or child in need of supervision, deliver the child to probation services or to a place of detention designated by the court; and in the case of an alleged neglected or abused child, deliver the child to the Human Services Department or to an appropriate shelter-care facility; or for an alleged delinquent, child in need of supervision, or neglected or abused child, to a medical facility if the child is believed to be suffering from a serious physical or mental condition or illness which requires either prompt treatment or prompt diagnosis.
2. When an alleged delinquent or child in need of supervision is delivered to probation services or to a place of detention designated by the court, a probation officer, prior to the placing of the child in detention, shall review the need for detention and shall release the child from custody unless detention is appropriate under the criteria established by Children's Code or has been ordered by the court pursuant to those criteria.
3. When an alleged neglected or abused child is delivered to the Human Services Department, a Human Services Department caseworker, prior to placing the child in custody, shall review the need for placing the child in custody and shall release the child from custody unless retention is appropriate under the criteria established by the Children's Code or has been ordered by the court pursuant to those criteria. When a child is delivered to an appropriate shelter-care facility, a Human

The end of the document is already being displayed.

Services Department caseworker shall review the need for

.....

retention of custody within a reasonable time after delivery of the child to the facility and shall release the child from custody unless retention is appropriate under the criteria established by the Children's Code or has been ordered by the court pursuant to those criteria.

4. If a child is taken into custody and is not released to the child's parents, guardian or custodian, the person taking the child into custody shall give written notice thereof as soon as possible, and in no case later than twenty-four hours, to the child's parent, guardian or custodian and to the court, together with a statement of the reason for taking the child into custody.
5. In all cases when a child is taken into custody, he/she shall be released to his/her parent, guardian or custodian in accordance with the conditions and time limits set forth in the Rules of Procedure for the Children's Court.